

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DARYL TOEWS**, on February 8, 1999 at 3:15 P.M., in Room 402 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Daryl Toews, Chairman (R)  
Sen. Bill Glaser, Vice Chairman (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis (R)  
Sen. John Hertel (R)  
Sen. Bob Keenan (R)  
Sen. Debbie Shea (D)  
Sen. Mike Sprague (R)  
Sen. Spook Stang (D)  
Sen. Mignon Waterman (D)  
Sen. Jack Wells (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Eddye McClure, Legislative Branch  
Janice Soft, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 325, 2/4/1999  
Executive Action: SB 325 - DPAA; SB 299 - DP;  
SB 300 - TABLED; SB 204 -  
TABLED; SB 261 - TABLED

#### **HEARING ON SB 325**

**Sponsor:** SEN. JOHN HERTEL, SD 47, Moore

**Proponents:** Lynda Brannon, Montana Association of School  
Business Officials  
Stacey Vestal, Clerk, Lewistown Schools  
Shirley Barrick, Fergus County Supt of Schools

**Opponents:** None

**Opening Statement by Sponsor:**

SEN. JOHN HERTEL, SD 47, Moore, said the bill title explained it very well -- an act authorizing school district trustees to declare a trustee candidate elected by acclamation. **Section 1** described the provisions before the above could be put into place, i.e. number of candidates nominated was equal to or less than the number of positions to be elected. He said this situation was not uncommon with smaller schools, explaining in his home community at the April election the only thing on the ballot was a position for one trustee and only one person ran. The district had to run the election, hire judges, print ballots, etc., which involved costs, even it really was a "no-election." He reiterated **SB 325** saved time, money and made sense.

**Proponents' Testimony:**

**Lynda Brannon, Montana Association of School Business Officials (MASBO)**, said MASBO supported bills that saved school districts money or allowed them to stretch their current dollars. She stressed the bill was not a mandate -- even if only one candidate was running for the school board office, it didn't say the person must be declared the winner by acclamation; rather the bill said the trustees may do this. She said **SB 325** would not save districts massive amounts of money, but every bit of savings was helpful.

**Stacey Vestal, Clerk, Lewistown Schools**, distributed copies of **EXHIBIT (eds31a01)** and said the laws substantiated what was in **SB 325**; they would still be intact and would be followed. She said the law provided if anyone wanted to run for office, 40 days before the regular election day he or she had to file a petition with signatures with the clerk. That would make that person a valid candidate. Also, if a person decided to be a write-in candidate, he or she would need to file a declaration of intent with the clerk no later than 15 days before the election. After that time, no write-in candidates would be considered. She said at that point the board could declare (if there were the same number of candidates as openings) the candidates elected by acclamation. She said elections in Lewistown cost about \$3,000 so declaration by acclamation would be a savings to the district. **Ms. Vestal** recounted it was a may situation because it was a

decision to be made at the local level, i.e. it was an option for trustees at an election. She asked for the Committee's support.

**Shirley Barrick, Fergus County Superintendent of Schools**, said Fergus County had 11 school districts and last year only two of the districts had multi-candidates file for the trustee position. One of her rural schools had only 28 registered voters and their election cost them over \$150. She asked for the Committee's support for **SB 325**.

**Opponents' Testimony:** None.

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**Questions from Committee Members and Responses:**

**SEN. MIGNON WATERMAN** commented this situation was common in small communities, and not only in the school elections. She agreed it sounded reasonable but she feared in the future it could include city council, Supreme Court, etc. She suggested there was some benefit to having elections. **SEN. HERTEL** agreed her concern might have some merit and said one person asked him about the write-ins. He said that would not be an issue because by law they had to file 15 days in advance. He again referred to his home community example used in his opening statement and supported the bill's merit.

**SEN. WATERMAN** said she would feel more comfortable with language that said "if there was no other purpose for an election," or similar language. **SEN. HERTEL** agreed with her.

**SEN. ALVIN ELLIS** wanted to be sure districts were not precluded from holding an election even though there might be only one candidate and was told it didn't.

**SEN. JACK WELLS** referred to Page 1, Line 11, and asked if the sponsor would agree to adding "and there is no other reason for the election." Also, Paragraph 2 switched to singular rather than plural, as in Paragraph 1, and wondered if Paragraph 2 could also be made plural. **SEN. HERTEL** agreed to both suggestions.

**Closing by Sponsor:**

**SEN. JOHN HERTEL** reminded the Committee **SB 325** was an option trustees could use; however, if they could see their community was not in favor, they could go on with holding elections as spelled out in present statute. The purpose for the bill was to save money for the district. He asked for a positive vote.

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**EXECUTIVE ACTION ON SB 325**

**Motion:** SEN. SPRAGUE moved that SB 325 DO PASS.

**Substitute Motion/Vote:** SEN. WELLS made a substitute motion that AMENDMENTS SB032501.AEM DO PASS. Substitute motion carried unanimously 11-0 EXHIBIT(eds31a02).

**Vote:** Motion that SB 325 AS AMENDED DO PASS carried unanimously 11-0.

**EXECUTIVE ACTION ON SB 299**

**Motion:** SEN. WATERMAN moved that SB 299 DO PASS.

**Discussion:**

SEN. ALVIN ELLIS said it seemed the way the bill read was buses could be bought but not put immediately into service; however, testimony said just the opposite. SEN. DARYL TOEWS asked why the Committee would care.

SEN. MIKE SPRAGUE referred to Line 15, which said "and additional buses." He said to him it meant the old one would be kept but the new one would be put into service. He too felt it shouldn't bother the Committee one way or the other because reasons for not using the old bus could include questionable dependability, size or whatever. SEN. HERTEL said it was his opinion the trustees would be very conscious of perceptions in their communities. Also, at times another bus was necessary for an extra route, etc.

SEN. ELLIS said his skepticism arose from a concern of expansion of the Transportation Reserve Fund, which in some instances was used to expand the General Fund. He hoped that loophole had been totally closed by legislation last Session.

SEN. BOB KEENAN asked what happened if a district had a bus worth \$50,000 and bought a bus for \$25,000 with Bus Depreciation funds -- would adding another bus accelerate the Bus Depreciation Fund. In other words, would adding more buses accelerate the fund growth. SEN. BILL GLASER said it would depend on whether CI-75 prevailed.

**SEN. JOHN HERTEL** referred to Line 19 and said the depreciation ran out, usually after about five to seven years.

**SEN. GLASER** commented the way transportation was described, the extra purchased bus could not be used for anything other than transporting students to and from school, i.e. no extra-curricular activities. **Lynda Brannon** said the Bus Depreciation Fund could not be used for buses involved in extra-curricular buses only. She said expanding the bus fleet in order to increase the Bus Depreciation Fund couldn't happen because each bus could be depreciated only for a certain length of time -- after that nothing could be collected on that bus.

**Vote:** Motion carried unanimously 11-0.

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#### **EXECUTIVE ACTION ON SB 300**

#### **Discussion:**

**SEN. ALVIN ELLIS** said State Administration was looking at the first Tuesday in May for the election this year, though it would be hard to be prepared that soon. He said he had a bill in which he wanted to set up elections for the first Tuesday in June; however, he felt there was enough unanimity that warranted the first Tuesday in May and he was amenable to changing his. His bill said newly elected officials wouldn't take office until late in June which meant all budgetary mechanisms would already have been fulfilled. He said it seemed whether CI-75 lived or died, separate or multiple school elections have been working in the populace to the detriment of the school boards. He stated he usually didn't support a single election, but now felt such an election might be the school's best defense against eventually having to vote on all the budgets they did permissively. He expressed support for the bill.

**SEN. BILL GLASER** said the person who went away from the school board went for a reason and sometimes the sooner there was a clean sweep, the better it was.

**SEN. MIGNON WATERMAN** said another thing happening at election time was the hiring of the superintendent. If the board was split with some supporting him or her and some not, and if the will of the people was to elect people who didn't support that superintendent but the present board extended the contract, the situation would not be healthy.

**SEN. JOHN HERTEL** said the superintendent was usually hired before election time; however, many teachers were hired then and budgetary items were considered, i.e. April was one of the biggest months. He said that was a difficult time for the new trustee.

**SEN. TOEWS** suggested if a decision was made today perhaps things such as the May date given by **SEN. ELLIS** would have to be dealt with later. He wondered what should be taken care of first.

**Motion/Vote:** **SEN. WATERMAN** moved that SB 300 BE TABLED. Motion carried 6-5 on Roll Call Vote #1.

#### **EXECUTIVE ACTION ON SB 204**

**SEN. DARYL TOEWS** informed the Committee the sponsor asked that there be no amendments; however, before action was taken there would be discussion.

**Motion:** **SEN. KEENAN** moved SB 204.

#### **Discussion:**

**SEN. MIGNON WATERMAN** commented there were some things that needed clarification, like source and timing of funding.

**SEN. SPRAGUE** asked **SEN. WATERMAN** if those things were addressed, would she vote for SB 204. **SEN. WATERMAN** said she was in a quandry because she was a big fan of charter schools; in fact, last Session when **SEN. KEATING** came with his charter schools bill, she offered to work with him on it because she liked its concept. However, she thought SB 204 had a lot of problems so she probably would not support this particular bill.

**SEN. MIKE SPRAGUE** said there was a need for all types of schools, including alternative, and saw charter schools as an alternative school. He said he supported the concept.

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**SEN. GLASER** said the way he read the Constitution a charter school could not be had under a school district and not have the school board have supervision and control of the schools in the district. He said if SB 204 could be amended to fix the problem, it could become Constitutional.

**SEN. ALVIN ELLIS** said **SEN. KEATING** addressed that issue when he said the board could be elected from those interested in the

charter school system; of course, that would take a change in the bill. He said people in small school districts were generally satisfied with their schools; however, the larger the system got, the more difficult it was for people to control the school their kids attended. Today in Montana elementary enrollments were declining, which sometimes mandated closing of a facility; when that happened, resentment among the people was often generated toward the school board.

**SEN. JON ELLINGSON** said it was clear public education had to offer alternatives and perhaps charter schools were part of them; however, he had a problem with a number of aspects of **SB 204**:

(1) Alternative education under existing law hadn't been fully explored; (2) There was no requirement that people with educational experience to be part of the board; (3) There was no academic oversight of charter schools -- if public funding was to be used, there needed to be some sort of public accountability; (4) The charter of a charter school could not be revoked because of the very general nature of the requirements -- there needed to be some sort of ability of the board of charter schools to be able to revoke the charter. His summation was the concept of charter schools was not necessarily bad but this bill was a very weak way to advocate charter schools. He could not support the bill.

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**SEN. JACK WELLS** said the sponsor pointed out why the charter schools should not be under a regular school board because then there would not be autonomy or a different kind of school system to which parents could send their children. As for revocation, not much was revoked in the public school system; however, it would automatically occur when parents thought the school wasn't doing its job. He said he supported the idea of giving parents alternatives. **SEN. WELLS** asked about the magnet school in Missoula. **SEN. GLASER** said the magnet school in Missoula operated like a charter school within the school system but with a little more free rein. It was probably one of the most successful experiments in Montana. **SEN. WELLS** again said he liked **SB 204** except for the possible Constitutional problem.

**SEN. GLASER** said the Missoula magnet school was under the control of the latitude of the school board; in his opinion, that school would be Constitutional.

**SEN. SPRAGUE** commented the Committee had the responsibility to create a bill that was as good as humanly possible; therefore, once the bill was presented to the Legislature, it became a Legislative bill.

**SEN. BARRY "SPOOK" STANG** said some of the problems he had with the bill were its Constitutionality as well as giving 90% of the school district's per-pupil-budget without state control.

**Substitute Motion/Vote:** **SEN. STANG** made a substitute motion that **SB 204 BE TABLED**. Substitute motion carried 8-3 on Roll Call Vote #2.

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#### **EXECUTIVE ACTION ON SB 261**

**Eddy McClure** said amendments SB026101.aem **EXHIBIT(eds31a03)** made the bill read (due to CI-75) very similar to **HB 103**. She reminded the Committee **SEN. HALLIGAN** said both bills weren't needed.

**Motion:** **SEN. WATERMAN** moved that **AMENDMENTS SB026101.AEM DO PASS**.

#### **Discussion:**

**Eddy McClure** said the over-base in **HB 103** was confusing because the language wasn't clear. She said Amendment #5 clarified the language so everybody was reading it the same way. Much of the language was just clean-up. She said if CI-75 were to go down, some language would be clarified on the ballot portion. She said Amendment #19 clarified what would happen if there was a return to the old system. **Ms. McClure** said from early on **SEN. HALLIGAN** attempted to return HB 667 to its original form before HB 22 came in. HB 22 got schools to the enrollment issue a lot quicker.

**SEN. DARYL TOEWS** said he didn't have the fear he used to have because schools still had to stay within the perimeters -- the bill didn't deal with the caps at all.

**SEN. ALVIN ELLIS** said it appeared that either **HB 103** or **SB 261** was going to pass; however, he wasn't going to support it because if equalization was really believed in, why should some schools within the window be allowed to increase funding per capita faster than other schools. In other words, if it was OK for a school who lost 10% of its enrollment to increase per student funding why wouldn't it be all right for every school within the window to increase funding. He suggested all schools within the window be treated equally; furthermore, allowing those kinds of per ANB increases in light of the most recent election was even more irresponsible than it was in 1993.



Vote: Motion AMENDMENT SB026101.SEM carried 10-1, with SEN. MIKE SPRAGUE VOTING NO.

Motion/Vote: SEN. WATERMAN moved that SB 261 AS AMENDED DO PASS.  
Motion failed 5-6 on Roll Call Vote #3.

Motion/Vote: SEN. WELLS moved that SB 261 AS AMENDED BE TABLED.  
Motion carried 6-5 on Roll Call Vote #4.

**ADJOURNMENT**

Adjournment: 4:20 P.M.

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SEN. DARYL TOEWS, Chairman

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JANICE SOFT, Secretary

DT/JS

**EXHIBIT** (eds31aad)